

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
 AND VARIANCE - N/S Lyons Mill
 Road, 1480' W of Deer Park Road * DEPUTY ZONING COMMISSIONER
 (10212 Lyons Mill Road)
 2nd Election District * OF BALTIMORE COUNTY
 3rd Councilmanic District * Case No. 95-361-XA
 Vance Cole
 Petitioner *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Exception and Variance for that property known as 10212 Lyons Mill Road, located in the vicinity of Harrisonville in Owings Mills. The Petitions were filed by the owner of the property, Vance P. Cole, and the Contract Purchaser, Randall David Bernstein. The Petitioners seek a special exception for a landscape service operation/horticultural nursery, pursuant to Sections 1A01.2.C.10(b) and 1A01.2.C.11(a) of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition, the Petitioners seek variance relief from the B.C.Z.R. as follows: 1) From Sections 1A03.4.B.2, 102.2 and 404 to permit a property line to a non-residential building setback of 45 feet in lieu of the required 50 feet for an existing shed (Building E-5), to permit building to building setbacks of 8 feet, 43 feet, 15 feet and 70 feet in lieu of the required 100 feet each (based on the required 50-foot building to lot line setback) between Buildings E-1 and E-2, Buildings E-2 and E-3, Buildings E-3 and E-4, and Buildings E-1 and E-3, respectively; from Section 409.6 to permit 10 parking spaces in lieu of the required 33.5 for a retail display building and immediate sales area; from Section 409.8.A.2 to permit gravel driveways and parking areas in lieu of the required paved surfaces; and from Section 409.8.A.6 to permit the gravel parking areas not to be striped.

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Date

By

RECORDED

At the preliminary stage of the hearing, I was advised that the site plan had been altered to provide 34 parking spaces on the site in lieu of the originally projected 10 spaces. Inasmuch as the 34 parking spaces to be provided meets the requirements of Section 409.6 of the B.C.Z.R., the relief requested to allow ten (10) parking spaces is no longer necessary and therefore, was deleted from the Petitioners' request. In addition, the altered site plan was submitted at the hearing as a red-lined plan which was accepted into evidence as Petitioner's Exhibit 1.

Appearing at the public hearing on behalf of the Petitions were Vance and Tracey Cole, property owners, Randall D. and Brian A. Bernstein, Contract Purchasers, Robert A. Hoffman, Esquire, attorney for the Petitioners, and David S. Thaler and Alan Scoll with D. S. Thaler and Associates, Inc. Appearing as interested parties were Emily Wolfson with the Liberty Communities Development Corporation, Chris Pippin, and Samuel Blitz. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of a gross area of 13.87 acres, more or less, split zoned R.C.4 and R.C.5, with the majority of the property being zoned R.C. 4 and only a small portion of the site (0.25 acres) zoned R.C.5. The property is improved with a single family residence and various accessory structures (sheds) as shown on Petitioner's Exhibit 1. Testimony indicated that the Petitioners have contracted to sell the property to Mr. Bernstein who has been in the landscaping business for the past five (5) years and presently operates his business within one-half mile of the subject site. He testified that he wishes to relocate his business to this area in that the majority of his clients are located in this particular area of Baltimore County. He further testified that the subject property is larger than his

existing business and provides areas suitable for planting and raising the stock used in his landscaping business. Thus, the Petitioners have a dual request within the Petition for Special Exception, the first being approval of the use of the subject property for a landscape service operation, and the second being approval of a horticultural nursery on the subject site. The Petitioners have identified on the site plan the specific uses in various locations on the property. Further testimony revealed that the variance relief sought is for existing improvements and conditions on the property. In addition, the rear of the property abuts Locust Run and the Petitioner wishes to utilize a crushed stone surface in lieu of the required paved macadam to protect the stream. Mr. Bernstein further testified that he intends to utilize the existing buildings on the property to the extent possible and integrate them into his landscaping and horticultural business. Therefore, he believes that the use proposed will not cause any undue disturbance to the property or adversely impact the surrounding locale.

It is clear that the B.C.Z.R. permits the use proposed in the R.C.4 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the par-

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DATE 6/6/95
By [Signature]

ticular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties

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which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

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Date

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Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial injustice to applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting

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of this relief is accomplished without injury to the public health, safety or general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception and variances should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 6th day of June, 1995 that the Petition for Special Exception for a landscape service operation/horticultural nursery, pursuant to Sections 1A01.2.C.10(b) and 1A01.2.C.11(a) of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the B.C.Z.R. as follows: 1) From Sections 1A03.4.B.2, 102.2 and 404 to permit a property line to a non-residential building setback of 45 feet in lieu of the required 50 feet for an existing shed (Building E-5), to permit building to building setbacks of 8 feet, 43 feet, 15 feet and 70 feet in lieu of the required 100 feet each between Buildings E-1 and E-2, Buildings E-2 and E-3, Buildings E-3 and E-4, and Buildings E-1 and E-3, respectively; from Section 409.8.A.2 to permit gravel driveways and parking areas in lieu of the required paved surfaces; and from Section 409.8.A.6 to permit the gravel parking areas not to be striped, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

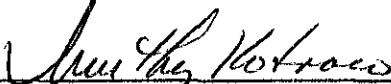
ORDER ACCEPTED FOR FILING

Case

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IT IS FURTHER ORDERED that the Petitioners shall have five (5) years from the date of this Order in which to utilize the special exception relief granted herein.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 409.6 of the B.C.Z.R. to permit 10 parking spaces in lieu of the required 33.5 for a retail display building and immediate sales area be and is hereby DISMISSED AS MOOT.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

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Date

By

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

June 6, 1995

(410) 887-4386

Robert A. Hoffman, Esquire
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
N/S Lyons Mill Road, 1480' W of Deer Park Road
(10212 Lyons Mill Road)
2nd Election District - 3rd Councilmanic District
Vance Cole - Petitioner
Case No. 95-361-XA

Dear Mr. Hoffman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Exception and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy M. Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. & Mrs. Vance Cole, 10212 Lyons Mill Road, Owings Mills, Md. 21117

Mr. Randall Bernstein, 7256 Lake Hills Ct., Marriottsville, Md. 21104
Mr. Brian Bernstein, 123 Oakway Road, Lutherville, Md. 21093

Messrs. David S. Thaler and Alan Scoll, D. S. Thaler & Assoc., Inc.
7115 Ambassador Road, Baltimore, Md. 21244

Ms. Emily Wolfson, 8506 Church Lane, Randallstown, Md. 21133

People's Counsel; ~~File~~

MICROFILMED



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Petition for Special Exception

95-361-XA

to the Zoning Commissioner of Baltimore County

for the property located at 10212 Lyons Mill road
which is presently zoned RL4

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

a landscape service operation/horticultural nursery pursuant to Sections 1A01.2.C.10(b) and 1A01.2.C.11(a) of the Baltimore County Zoning Regulations.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee

Randall David Bernstein
(Type or Print Name)

Randall D. Bernstein
Signature Randall D. Bernstein

7256 Lotts Hills Court
Address

Manningsville, Md. 21104
City State Zipcode

Attorney for Petitioner

Robert A. Hoffman
(Type or Print Name)

Venable, Baetjer & Howard
Signature

210 Allegheny Avenue 494-6200
Address Phone No

Towson, Maryland 21204
City State Zipcode

Legal Owner(s)

Vance Cole
(Type or Print Name)

Vance Cole
Signature Vance Cole

(Type or Print Name)

Signature

10212 Lyons Mill road 922-5109
Address Phone No

Mannings Mills, Md. 21117
City State Zipcode

Name, Address and phone number of representative to be contacted

Robert A. Hoffman
Name 210 Allegheny Avenue
Towson, Maryland 21204 494-6200
Address Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2 HRS
unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____
REVIEWED BY: [Signature] DATE: 4/11/95

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Date 4/6/95
By [Signature]





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 10212 Lyons Mill road
which is presently zoned RC4

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

See Attached

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

To be determined at hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition

Contract Purchaser/Lessee

Randall David Bernstein
(Type or Print Name)

Randall D. Bernstein
Signature Randall D. Bernstein

7256 Lake Hills Court
Address

Manassasville, Md. 21104
City State Zipcode

Attorney for Petitioner

Robert A. Hoffman
(Type or Print Name)

[Signature]
Signature Venah Baetjer & Howard
210 Allegheny Avenue

494-6200
Phone No
Towson, Maryland 21204
City State Zipcode

Legal Owner(s)

VANCE COLE
(Type or Print Name)

Vance Cole
Signature Vance Cole

[Blank]
(Type or Print Name)

[Blank]
Signature

10212 Lyons Mill road 922-5109
Address Phone No

Owings Mills, Md. 21117
City State Zipcode
Name, Address and phone number of representative to be contacted.

Robert A. Hoffman
Name 210 Allegheny Avenue
Towson, Maryland 21204 494-6200
Address Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2 HRS
unavailable for Hearing

the following dates _____ Next Two Months

ALL ☒ OTHER ☐
REVIEWED BY [Signature] DATE 4/11/95

Printed with Soybean Ink
on Recycled Paper



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By

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95-361-XA

Bernstein Property
10212 Lyons Mill Road

Variance Request

1. B.C.Z.R. Section: 1A03.4.B.2, ~~102.2~~ 102.2 AND 404
 - a. To allow a 45'± from property line to a non-residential building in lieu of the required 50'. (Existing shed E-5)
 - b. Between buildings E-1 and E-2:

To allow a 8' ± building to building setback in lieu of the required 100' - (50' building to lot line setback)
 - c. Between buildings E-2 and E-3:

To allow a 43'± building to building setback in lieu of the required 100' - (50' building to lot line setback)
 - d. Between buildings E-3 and E-4:

To allow a 15'± building to building setback in lieu of the required 100' - (50' building to lot line setback)
 - e. Between buildings E-1 and E-3:

To allow a 70'± building to building setback in lieu of the required 100' - (50' building to lot line setback)

Deleted
No longer
necessary
TMM

- ~~2. B.C.Z.R. Section: 409.6.

To allow 10 parking spaces for a retail display building and immediate sales area in lieu of 33.5 spaces required.~~
3. B.C.Z.R. Section: 409.8.A.2.

To allow gravel driveways and parking areas in lieu of paved surfaces.
4. B.C.Z.R. Section: 409.8.A.6.

To allow the gravel parking areas to not be striped.

353
95-361-XA
April 10, 1995

PROPERTY DESCRIPTION

BERNSTEIN PROPERTY
(FOR ZONING PURPOSES ONLY)

Beginning at a point on the centerline of Lyons Mill Road approximately 1,480 feet, more or less, in a westerly direction from the centerline of the intersection of Deer Park Road and Lyons Mill Road running the following thirty-five (35) courses and distances:

1. North 69°28'49" West 233.11 feet, more or less,
to a point; thence,
2. South 64°59'59" West 211.77 feet, more or less,
to a point; thence,
3. North 73°48'47" West 65.16 feet, more or less,
to a point; thence,
4. North 19°09'40" East 147.88 feet, more or less,
to a point; thence,
5. North 70°44'12" West 10.00 feet, more or less,
to a point; thence,
6. North 08°55'12" West 1,116.84 feet, more or less,
to a point; thence,
7. North 75°31'43" East 205.82 feet, more or less,
to a point; thence,
8. South 86°20'59" East 80.46 feet, more or less,
to a point; thence,

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page 2
April 10, 1995
PROPERTY DESCRIPTION
BERNSTEIN PROPERTY
(FOR ZONING PURPOSES ONLY)

95-361-XA

9. North 76°27'33" East 60.17 feet, more or less,
to a point; thence,
10. South 84°56'57" East 57.38 feet, more or less,
to a point; thence,
11. North 81°35'45" East 38.96 feet, more or less,
to a point; thence,
12. South 89°59'45" East 24.53 feet, more or less,
to a point; thence,
13. South 85°15'21" East 15.64 feet, more or less,
to a point; thence,
14. South 86°08'13" East 27.23 feet, more or less,
to a point; thence,
15. North 45°31'20" East 6.73 feet, more or less,
to a point; thence,
16. South 40°07'43" East 203.85 feet, more or less,
to a point; thence,
17. South 49°35'18" East 77.95 feet, more or less,
to a point; thence,
18. South 55°35'42" West 41.40 feet, more or less,
to a point; thence,
19. South 05°48'15" West 294.58 feet, more or less,
to a point, thence,
20. South 14°59'13" West 88.61 feet, more or less,
to a point; thence,

1000 1000

95-361-XA

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April 10, 1995
PROPERTY DESCRIPTION
BERNSTEIN PROPERTY
(FOR ZONING PURPOSES ONLY)

21. South 34°36'46" West 62.44 feet, more or less,
to a point; thence,
22. South 55°49'46" West 39.62 feet, more or less,
to a point; thence,
23. South 16°22'03" West 73.41 feet, more or less,
to a point; thence,
24. North 48°53'04" West 36.59 feet, more or less,
to a point; thence,
25. South 10°35'18" West 41.81 feet, more or less,
to a point; thence,
26. South 30°36'52" West 111.39 feet, more or less,
to a point; thence,
27. South 28°36'28" East 172.58 feet, more or less,
to a point; thence,
28. South 47°54'49" West 19.77 feet, more or less,
to a point; thence,
29. South 13°10'27" West 32.95 feet, more or less,
to a point; thence,
30. South 30°10'58" East 124.64 feet, more or less,
to a point; thence,
31. South 21°43'47" East 39.85 feet, more or less,
to a point; thence,
32. South 26°05'35" East 22.80 feet, more or less,
to a point; thence,

page 4

April 10, 1995

PROPERTY DESCRIPTION

BERNSTEIN PROPERTY

(FOR ZONING PURPOSES ONLY)

95-361-XA

33. South 07°51'46" East 68.10 feet, more or less,

to a point; thence,

34. South 61°11'22" East 25.38 feet, more or less,

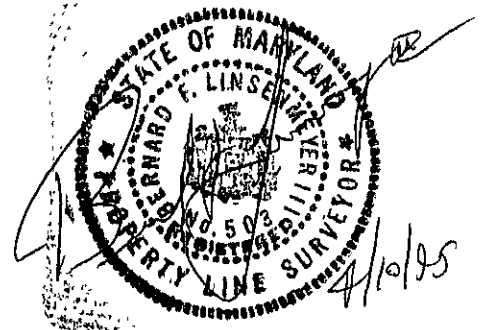
to a point; thence,

35. South 06°30'13" West 12.21 feet, more or less,

to the point of beginning.

Containing approximately 13.87 acres, more or less

Also known as 10212 Lyons Mill Road.



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

95-361-X1A

District Inl.

Date of Posting 5/5/95

Posted for: Special Exceptions Variance

Petitioner: Cole & Bernier

Location of property: 10712 Lyons Mill Rd

Location of Signs: Facing road way for property being zoned

Remarks:

Posted by [Signature]
Signature

Date of return: 5/12/95

Number of Signs: 1



NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case Number:

95-361-XA (Item 353)
10212 Lyons Mill Road
N/S Lyons Mill Road, 1480'
W of Deer Park Road
2nd Election District
3rd Councilmanic

Legal Owner:

Vance Cole

Contract Purchaser:

Randall D. Bernstein

HEARING: MONDAY,

MAY 22, 1995 at 2:00 p.m.
In Rm. 118, Old
Courthouse.

Special Exception: for a landscape service operation/horticultural nursery. **Variance:** to allow 45 feet +/- from property line to a non-residential building in lieu of the required 50 feet for existing shed E-5; to allow a 8-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-1 and E-2; to allow a 42-foot +/- building to

building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-2 and E-3; to allow a 15-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-3 and E-4; to allow a 70-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-1 and E-3; to allow 10 parking spaces for a retail display building and immediate sales area in lieu of 33.5

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

4/20

, 19 95

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 4/27, 19 95.

THE JEFFERSONIAN,

A. Henickson

LEGAL AD. - TOWSON

MICROFILMED



Baltimore City
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

95-361-XA

Account: R-001-6150

Number

353

By JLL

Date

4/11/95

1 SPX FILING CODE 050

300.00

1 VAR FILING CODE 020

250.00

3 SIGNS CODE 080

105.00

\$ 655.00

OWNER COLE

LOC 10212 LYONS MILL RD

PAID BY: ARBOR MASTERS INC.

APR 15 1995

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be accessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.


ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 353

Petitioner: Vance Cole

Location: 10212 Lyons Mill road, Barto, md. 21117

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Rondal David Bernstein

ADDRESS: 10917 Liberty road
Pandallstown, md. 21133

PHONE NUMBER: 410-521-5481 410-549-9010 hm

AJ:ggs

(Revised 04/09/93)



TO: PUTUXENT PUBLISHING COMPANY
April 27, 1995 Issue - Jeffersonian

Please forward billing to:

Randall David Bernstein
10917 Liberty Road
Randallstown, MD 21133
521-5481

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-361-XA (Item 353)
10212 Lyons Mill Road
N/S Lyons Mill Road, 1480' W of Deer Park Road
2nd Election District - 3rd Councilmanic
Legal Owner: Vance Cole
Contract Purchaser: Randall D. Bernstein
HEARING: MONDAY, MAY 22, 1995 at 2:00 p.m. in Room 118, Old Courthouse.

Special Exception for a landscape service operation/horticultural nursery.
Variance to allow 45 feet +/- from property line to a non-residential building in lieu of the required 50 feet for existing shed E-5; to allow a 8-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-1 and E-2; to allow a 43-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-2 and E-3; to allow a 15-foot +/- building to building setback in lieu if the required 100 feet (50-foot building to lot line setback) between buildings E-3 and E-4; to allow a 70-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-1 and E-3; to allow 10 parking spaces for a retail display building and immediate sales area in lieu of 33.5 spaces required; to allow gravel driveways and parking area in lieu of the paved surfaces; and to allow the gravel parking area to not be striped.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 21, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-361-XA (Item 353)
10212 Lyons Mill Road
N/S Lyons Mill Road, 1480' W of Deer Park Road
2nd Election District - 3rd Councilmanic
Legal Owner: Vance Cole
Contract Purchaser: Randall D. Bernstein
HEARING: MONDAY, MAY 22, 1995 at 2:00 p.m. in Room 118, Old Courthouse.

Special Exception for a landscape service operation/horticultural nursery.
Variance to allow 45 feet +/- from property line to a non-residential building in lieu of the required 50 feet for existing shed E-5; to allow a 8-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-1 and E-2; to allow a 43-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-2 and E-3; to allow a 15-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-3 and E-4; to allow a 70-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-1 and E-3; to allow 10 parking spaces for a retail display building and immediate sales area in lieu of 33.5 spaces required; to allow gravel driveways and parking area in lieu of the paved surfaces; and to allow the gravel parking area to not be striped.

A handwritten signature in dark ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Vance Cole
Randall David Bernstein
Robert A. Hoffman, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



MICROFILMED

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 15, 1995

Robert A Hoffman, Esquire
210 Allegheny Avenue
Towson, Maryland 21204

RE: Item No.: 353
Case No.: 95-361-XA
Petitioner: Vance Cole

Dear Mr. Hoffman:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by, the Office of Zoning Administration and Development Management (ZADM), Development Control Section on April 11, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely

A handwritten signature in dark ink that reads "W. Carl Richards, Jr." The signature is written in a cursive, flowing style.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson *JLP*
Development Coordinator, DEPRM

May 11, 1995

SUBJECT: Zoning Item #353 - Bernstein
10212 Lyons Mill Road
Zoning Advisory Committee Meeting of April 24, 1995

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Environmental Impact Review

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

Development of the property must comply with Regulations for Forest Conservation.

X The proposed parking, display building, and sale area are partially to totally located in wetlands and/or floodplain and the Forest Buffer associated with the stream, wetlands, and floodplain. No improvements may be constructed in this area.

Ground Water Management

Prior to the transfer of this property, not served by public water, the well water system will have to meet the provisions of Title 35 Article II of the Baltimore County Code (Individual Water Supplies).

Soil percolation tests will be required for any of the developed "areas" prior to the approval of any structures in which sanitary wastewater plumbing is to be approved.

X Prior to any development plan approval, the underground fuel tank must be precision tested or properly removed and backfilled. Prior to removal or abandonment, owner must contact the Division of Waste Management at 887-3745.

Agricultural Preservation Program

Nursery businesses are an important part of the agricultural economy in Baltimore County. This use, if it meets all the standards for this site, should be encouraged to increase the agricultural production in the County.

JLP:VK:TE:WL:sp

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: May 5, 1995
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for May 1, 1995
Items 352, 353, 354, 355, 358, 359, and 360

The Developers Engineering Section has reviewed
the subject zoning item and we have no comments.

RWB:sw



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

4-21-96

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 353 (JLL)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small

for

Ronald Burns, Chief
Engineering Access Permits
Division

BS/

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

MICROFILMED

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: May 17, 1995

FROM: Pat Keller, Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):

Item No. 353

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by:

Jeffrey W. Long

Division Chief:

Gary L. Kerns

PK/JL

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 04/25/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

Re: Property Owner: VANCE COLE

LOCATION: N/S LYONS MILL RD., 1480' W OF DEER PARK RD. (10212 LYONS
MILL RD. - BERNSTEIN PROPERTY)

Item No. 053

Zoning Agenda: SPECIAL EXCEPTION

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

RECEIVED

APR 27 1995

ZADM

REVIEWER: LT. ROBERT F. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
PETITION FOR VARIANCE		
10212 Lyons Mill Road, N/S Lyons Mill Rd,	*	ZONING COMMISSIONER
1480' W of Deer Park Road, 2nd Election		
District - 3rd Councilmanic	*	OF BALTIMORE COUNTY
Vance Cole / Randall D. Bernstein	*	CASE NO. 95-361-XA
Petitioners		
* * * * *		

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of May, 1995, a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Esquire, Venable, Baetjer & Howard, 210 Allegheny Avenue, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Emily Watson
Liberty Communities
Development Corp.

8506 Church Lane
Randallstown, Md 21133

D. S. THALER
ALAN SCOLL

DST & A
7115 AMBASSADOR RD
21244

CHRIS PIPPIN
(INTERESTED PARTY)

214 WASHINGTON AVE
TOWSON MD 21204

Rob Hoffman
Randall D. Bernstein
Brian A. Bernstein

20 Allegory Ave 21204
7256 Lake Hills Ct 21104
123 Oakway Road 21093

VANCE & TRACEY COLE

10212 LYONS MILL RD 21117

Samuel Bly

6410 Oak Hill Dr. 21784



95-361-XA

BERNSTEIN PROPERTY

D.S. THAYER & ASSOC., INC.
7115 HARRISON ROAD, BALTIMORE, MD 21244
(410) 344-1800, (410) 344-1547

DATE: JAN. 13, 1994

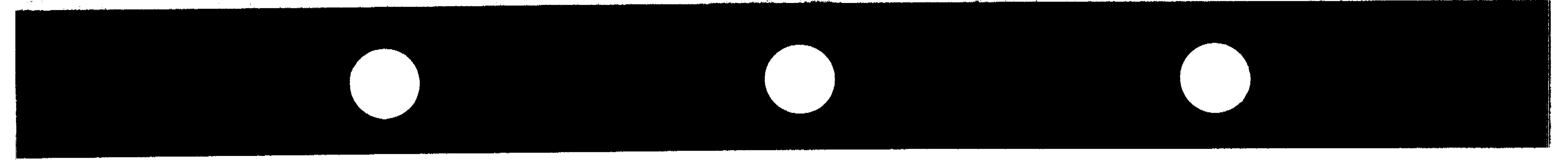
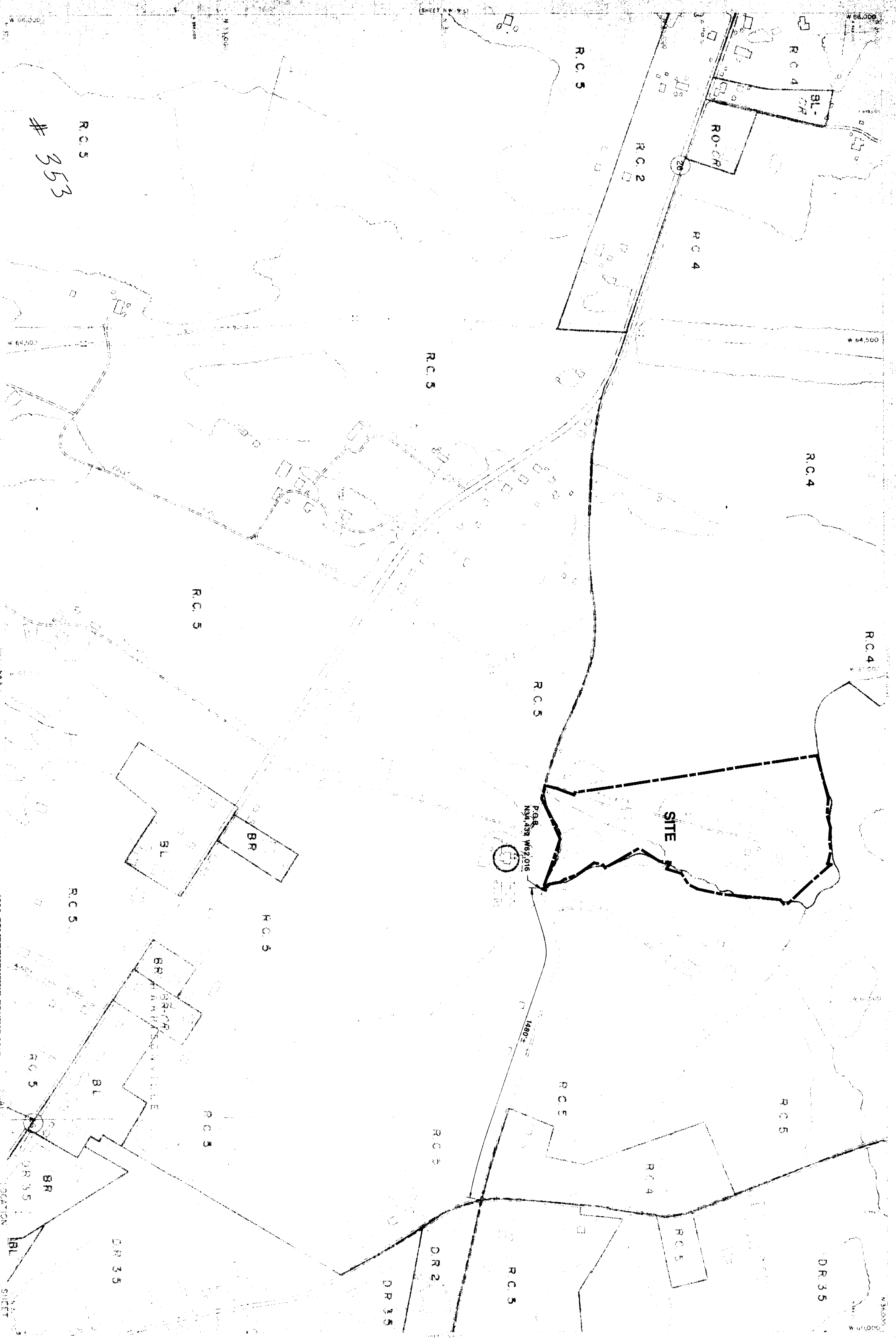
**BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP**

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992

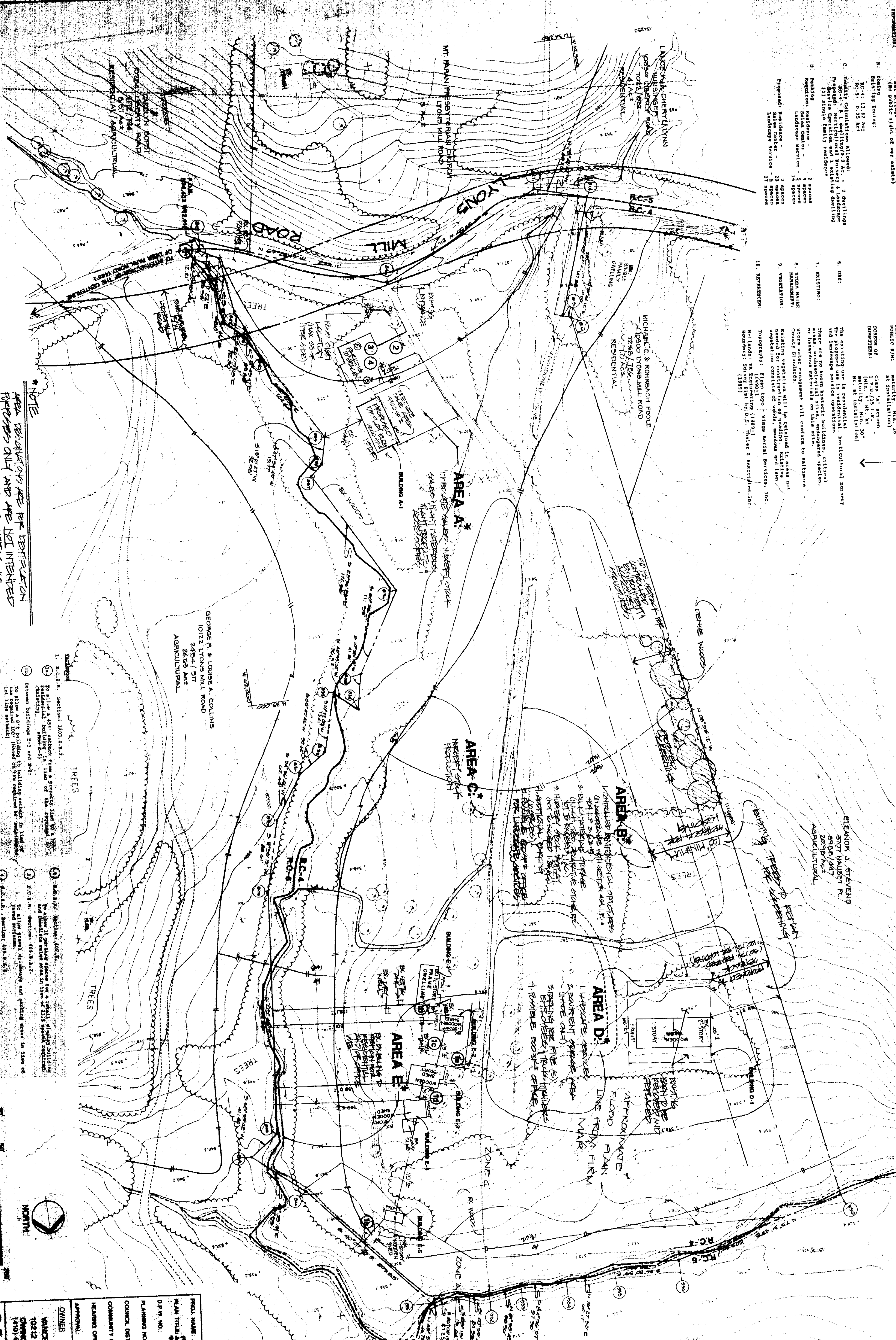
William A. Howard
Baltimore County Council

DATE: 1/13/94
BY: [Signature]
HARRISONVILLE
LOCATION: [Signature]
SHEET: [Signature]

MICROFILMED

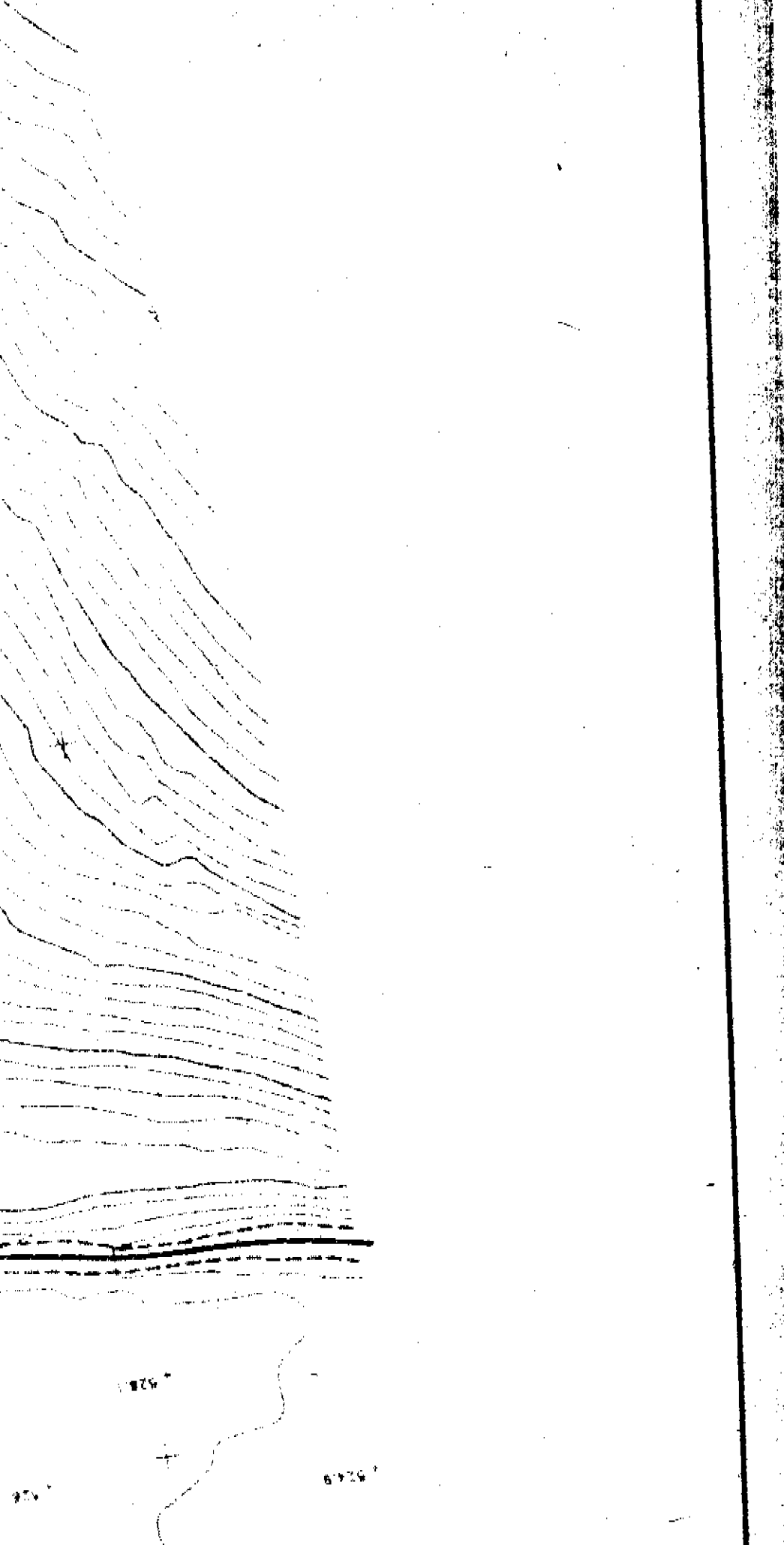


95-361-XA



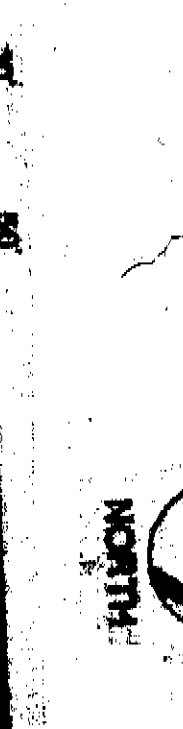
1. LANDSCAPE PLANTING AS SPECIFIED IN THE FOLLOWING:
- a. LANDSCAPE PLANTING: PLANTING OF TREES AND SHRUBS SHALL BE DONE IN ACCORDANCE WITH THE FOLLOWING:
 - b. PLANTING: PLANTING OF TREES AND SHRUBS SHALL BE DONE IN ACCORDANCE WITH THE FOLLOWING:
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 - x. PLANTING: PLANTING OF TREES AND SHRUBS SHALL BE DONE IN ACCORDANCE WITH THE FOLLOWING:
 - y. PLANTING: PLANTING OF TREES AND SHRUBS SHALL BE DONE IN ACCORDANCE WITH THE FOLLOWING:
 - z. PLANTING: PLANTING OF TREES AND SHRUBS SHALL BE DONE IN ACCORDANCE WITH THE FOLLOWING:

2. SOIL AND SLOPE UTILIZATION MEASURES:
- a. THE DEVELOPER SHALL CONSIDER PROTECTION OF THESE AREAS:
 - b. THE DEVELOPER SHALL CONSIDER PROTECTION OF THESE AREAS:
 - c. THE DEVELOPER SHALL CONSIDER PROTECTION OF THESE AREAS:
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 - w. THE DEVELOPER SHALL CONSIDER PROTECTION OF THESE AREAS:
 - x. THE DEVELOPER SHALL CONSIDER PROTECTION OF THESE AREAS:
 - y. THE DEVELOPER SHALL CONSIDER PROTECTION OF THESE AREAS:
 - z. THE DEVELOPER SHALL CONSIDER PROTECTION OF THESE AREAS:



NOTE: THE PROPOSED DEVELOPMENT IS NOT INTENDED TO BE A DIVISION OF THE TRACT.

1. B.C. 1. Section 100.1.1.1.
- a. To allow a 45' setback from a property line for a building.
 - b. To allow a 45' setback from a property line for a building.
 - c. To allow a 45' setback from a property line for a building.
 - d. To allow a 45' setback from a property line for a building.
 - e. To allow a 45' setback from a property line for a building.
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 - g. To allow a 45' setback from a property line for a building.
 - h. To allow a 45' setback from a property line for a building.
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 - j. To allow a 45' setback from a property line for a building.
 - k. To allow a 45' setback from a property line for a building.
 - l. To allow a 45' setback from a property line for a building.
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 - n. To allow a 45' setback from a property line for a building.
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 - p. To allow a 45' setback from a property line for a building.
 - q. To allow a 45' setback from a property line for a building.
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 - v. To allow a 45' setback from a property line for a building.
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 - x. To allow a 45' setback from a property line for a building.
 - y. To allow a 45' setback from a property line for a building.
 - z. To allow a 45' setback from a property line for a building.



PROJ. NAME: BERNSTEIN PROPERTY

PLAN TITLE: PLAT TO ACCOMPANY SPECIAL EXCEPTION AND VARIANCES

D.T.W. NO.: 2408 P.M.

PLANNING NO.: 2

COUNCIL DIST.: 2

ELECTION DIST.: 3

COMMUNITY MEETING: 1

HEARING OFFICE HEARING: 1

APPROVAL: 1

OWNER: VANCE COLE

10212 LIONS MILL ROAD

OWINGS MILLS, MD 21117

D.S. THALER & ASSOCIATES, INC.

LANDSCAPE ARCHITECTS

7718 ARBARDOR ROAD

BALTIMORE, MARYLAND 21244

(410) 644-3842 FAX (410) 644-3844

APPLICANT: RANDALL D. BERNSTEIN

10917 LIBERTY ROAD

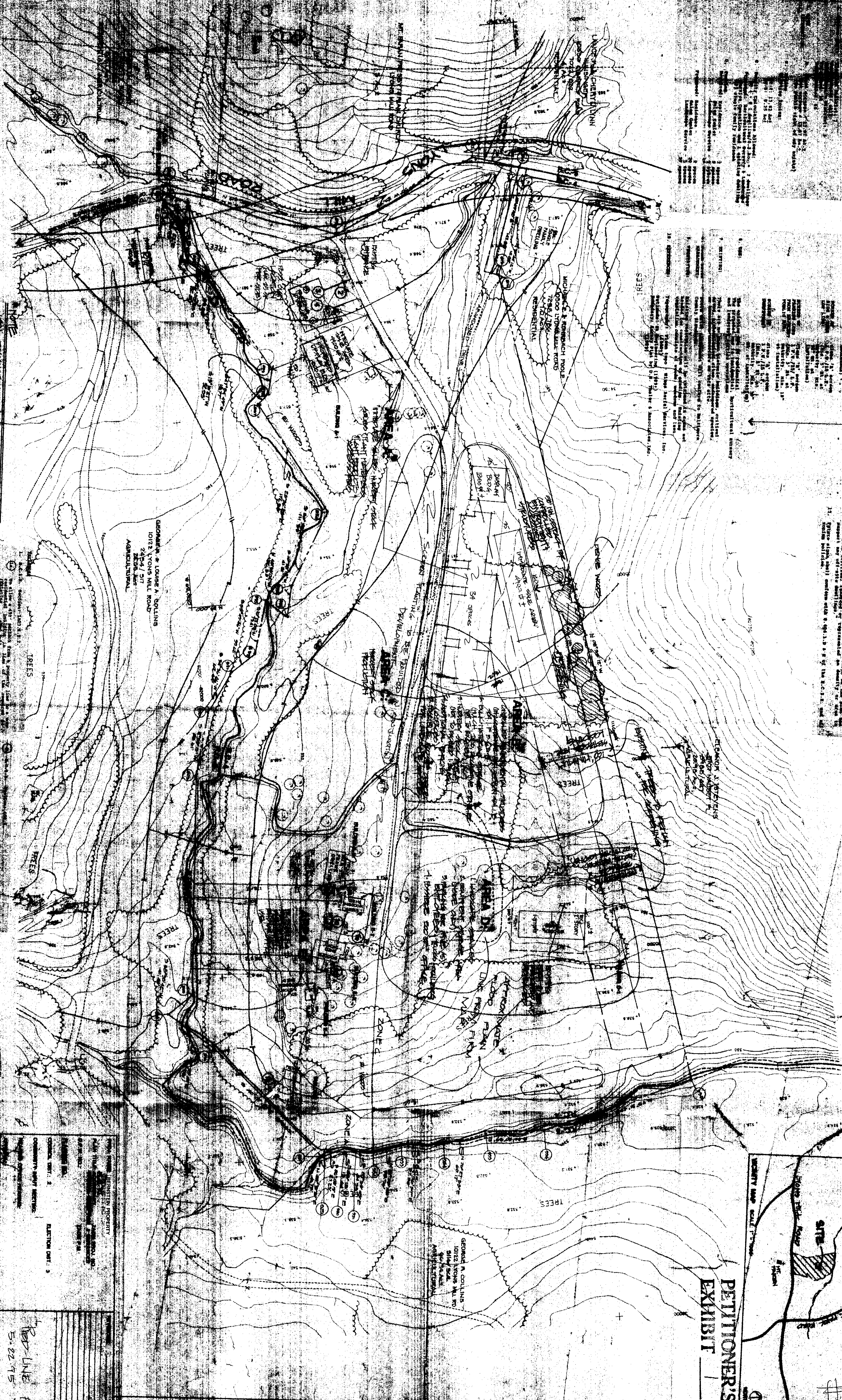
RANDOLPH, MD 21133

MICROFILMED

PLAT TO ACCOMPANY SPECIAL EXCEPTION AND VARIANCES

BERNSTEIN PROPERTY





PETITIONER'S
EXHIBIT —

BERNSTEIN PROPERTY

DSTA

These regulations apply to identification purposes only and were not intended to delimit zones like areas as delineated in section 102.2. (2.2.2.4) as a restriction of the process.

[illegible]

(16) Between buildings B-1 and B-2;
Between A-1 building and existing building in line with
the railroad tracks on the east side of building A-1;
The alleyway between the existing building and the
new building.

(17) Between buildings B-2 and B-3;

THE UNIVERSITY OF CHICAGO
LIBRARY
540 EAST 57TH STREET
CHICAGO, ILL. 60637

OWNER
VINCE DOLE
10115 LANSING AVE NW
DUNWOODY, GA 30117

APPLICANT _____
 RANDALL D. BERNARD
 1001 W. 10TH ST.
 RANDALLSTOWN, MD 21133
 95-361-
 JBA-
 11/11/88

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE - N/S Lyons Mill Road, 1490' W of Deer Park Road (10212 Lyons Mill Road) 2nd Election District 3rd Councilmanic District * BEFORE THE * DEPUTY ZONING COMMISSIONER * OF BALTIMORE COUNTY * Case No. 95-361-XA Vance Cole Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Exception and Variance for that property known as 10212 Lyons Mill Road, located in the vicinity of Harrisonville in Owings Mills. The Petitions were filed by the owner of the property, Vance P. Cole, and the Contract Purchaser, Randall David Bernstein. The Petitioners seek a special exception for a landscape service operation/horticultural nursery, pursuant to Sections 1A01.2.C.10(b) and 1A01.2.C.11(a) of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition, the Petitioners seek variance relief from the B.C.Z.R. as follows: 1) From Sections 1A03.4.B.2, 102.2 and 404 to permit a property line to a non-residential building setback of 45 feet in lieu of the required 50 feet for an existing shed (Building E-5), to permit building to building setbacks of 8 feet, 43 feet, 15 feet and 70 feet in lieu of the required 100 feet each (based on the required 50-foot building to lot line setback) between Buildings E-1 and E-2, Buildings E-2 and E-3, Buildings E-3 and E-4, and Buildings E-1 and E-3, respectively; from Section 409.6 to permit 10 parking spaces in lieu of the required 33.5 for a retail display building and immediate sales area; from Section 409.8.A.2 to permit gravel driveways and parking areas in lieu of the required paved surfaces; and from Section 409.8.A.6 to permit the gravel parking areas not to be striped.

ORDER RECEIVED FOR FILING
Date 6/6/95
By [Signature]

At the preliminary stage of the hearing, I was advised that the site plan had been altered to provide 34 parking spaces on the site in lieu of the originally projected 10 spaces. Inasmuch as the 34 parking spaces to be provided meets the requirements of Section 409.6 of the B.C.Z.R., the relief requested to allow ten (10) parking spaces is no longer necessary and therefore, was deleted from the Petitioners' request. In addition, the altered site plan was submitted at the hearing as a red-lined plan which was accepted into evidence as Petitioner's Exhibit 1.

Appearing at the public hearing on behalf of the Petitions were Vance and Tracey Cole, property owners, Randall D. and Brian A. Bernstein, Contract Purchasers, Robert A. Hoffman, Esquire, attorney for the Petitioners, and David S. Thaler and Alan Scoll with D. S. Thaler and Associates, Inc. Appearing as interested parties were Emily Wolfson with the Liberty Communities Development Corporation, Chris Pippin, and Samuel Blitz. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of a gross area of 13.87 acres, more or less, split zoned R.C.4 and R.C.5, with the majority of the property being zoned R.C. 4 and only a small portion of the site (0.25 acres) zoned R.C.5. The property is improved with a single family residence and various accessory structures (cheds) as shown on Petitioner's Exhibit 1. Testimony indicated that the Petitioners have contracted to sell the property to Mr. Bernstein who has been in the landscaping business for the past five (5) years and presently operates his business within one-half mile of the subject site. He testified that he wishes to relocate his business to this area in that the majority of his clients are located in this particular area of Baltimore County. He further testified that the subject property is larger than his

ORDER RECEIVED FOR FILING
Date 6/6/95
By [Signature]

- 2 -

existing business and provides areas suitable for planting and raising the stock used in his landscaping business. Thus, the Petitioners have a dual request within the Petition for Special Exception, the first being approval of the use of the subject property for a landscape service operation, and the second being approval of a horticultural nursery on the subject site. The Petitioners have identified on the site plan the specific uses in various locations on the property. Further testimony revealed that the variance relief sought is for existing improvements and conditions on the property. In addition, the rear of the property abuts Locust Run and the Petitioner wishes to utilize a crushed stone surface in lieu of the required paved macadam to protect the stream. Mr. Bernstein further testified that he intends to utilize the existing buildings on the property to the extent possible and integrate them into his landscaping and horticultural business. Therefore, he believes that the use proposed will not cause any undue disturbance to the property or adversely impact the surrounding locale.

It is clear that the B.C.Z.R. permits the use proposed in the R.C.4 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the par-

ORDER RECEIVED FOR FILING
Date 6/6/95
By [Signature]

- 3 -

ticular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself -- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties

ORDER RECEIVED FOR FILING
Date 6/6/95
By [Signature]

- 4 -

which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land. Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschmen, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

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Date 6/6/95
By [Signature]

- 5 -

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;

2) whether a grant of the variance applied for would do substantial injustice to applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting

ORDER RECEIVED FOR FILING
Date 6/6/95
By [Signature]

- 6 -

of this relief is accomplished without injury to the public health, safety or general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception and variances should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 6th day of June, 1995 that the Petition for Special Exception for a landscape service operation/horticultural nursery, pursuant to Sections 1A01.2.C.10(b) and 1A01.2.C.11(a) of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the B.C.Z.R. as follows: 1) From Sections 1A03.4.B.2, 102.2 and 404 to permit a property line to a non-residential building setback of 45 feet in lieu of the required 50 feet for an existing shed (Building E-5), to permit building to building setbacks of 8 feet, 43 feet, 15 feet and 70 feet in lieu of the required 100 feet each between Buildings E-1 and E-2, Buildings E-2 and E-3, Buildings E-3 and E-4, and Buildings E-1 and E-3, respectively; from Section 409.8.A.2 to permit gravel driveways and parking areas in lieu of the required paved surfaces; and from Section 409.8.A.6 to permit the gravel parking areas not to be striped, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

ORDER RECEIVED FOR FILING
Date 6/6/95
By [Signature]

- 7 -

IT IS FURTHER ORDERED that the Petitioners shall have five (5) years from the date of this Order in which to utilize the special exception relief granted herein.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 409.6 of the B.C.Z.R. to permit 10 parking spaces in lieu of the required 33.5 for a retail display building and immediate sales area be and is hereby DISMISSED AS MOOT.

Timothy M. Rotrodo
TIMOTHY M. ROTRODO
Deputy Zoning Commissioner
for Baltimore County

TWR:bjs

ORDER RECEIVED FOR FILING
Date 6/6/95
By [Signature]

- 8 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204
June 6, 1995 (410) 887-4386

Robert A. Hoffman, Esquire
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
N/S Lyons Mill Road, 1480' W of Deer Park Road
(10212 Lyons Mill Road)
2nd Election District - 3rd Councilmanic District
Vance Cole - Petitioner
Case No. 95-361-XA

Dear Mr. Hoffman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Exception and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,
Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. & Mrs. Vance Cole, 10212 Lyons Mill Road, Owings Mills, Md. 21117

Mr. Randall Bernstein, 7256 Lake Hills Ct., Marriottsville, Md. 21104
Mr. Brian Bernstein, 123 Oakway Road, Lutherville, Md. 21093

Messrs. David S. Thaler and Alan Scoll, D. S. Thaler & Assoc., Inc.
7115 Ambassador Road, Baltimore, Md. 21244

Ms. Emily Wolfson, 8506 Church Lane, Randallstown, Md. 21133

People's Counsel: File

Petition for Special Exception
to the Zoning Commissioner of Baltimore County
for the property located at 10212 Lyons Mill Road
which is presently zoned RC4

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

a landscape service operation/horticultural nursery pursuant to Sections
1A01.2.C.10(b) and 1A01.2.C.11(a) of the Baltimore County Zoning Regulations.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee
Randall David Bernstein
Type of Petitioner
Signature: Vance Cole
Address: 7256 Lake Hills Court
City: Marriottsville, Md. 21104
State: MD Zip: 21104

Attorney for Petitioner

Robert A. Hoffman
Type of Attorney
Signature: Robert A. Hoffman
Address: 210 Allegheny Avenue
City: Towson, Maryland 21204
State: MD Zip: 21204

Robert A. Hoffman
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, Maryland 21204 494-6200

ESTIMATED LENGTH OF HEARING
2 HRS

the following date: 4/11/95

ALL REVIEWED BY: [Signature] DATE: 4/11/95

Petition for Variance
to the Zoning Commissioner of Baltimore County
for the property located at 10212 Lyons Mill Road
which is presently zoned RC4

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Sections

See Attached

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

To be determined at hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee
Randall David Bernstein
Type of Petitioner
Signature: Vance Cole
Address: 7256 Lake Hills Court
City: Marriottsville, Md. 21104
State: MD Zip: 21104

Attorney for Petitioner

Robert A. Hoffman
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, Maryland 21204 494-6200

Robert A. Hoffman
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, Maryland 21204 494-6200

ESTIMATED LENGTH OF HEARING
2 HRS

the following date: 4/11/95

ALL REVIEWED BY: [Signature] DATE: 4/11/95

Bernstein Property
10212 Lyons Mill Road

Variance Request

- B.C.Z.R. Section: 1A03.4.B.2, 102.2 AND 404
 - To allow a 45'± from property line to a non-residential building in lieu of the required 50'. (Existing shed E-5)
 - Between buildings E-1 and E-2:
To allow a 8'± building to building setback in lieu of the required 100' - (50' building to lot line setback)
 - Between buildings E-2 and E-3:
To allow a 43'± building to building setback in lieu of the required 100' - (50' building to lot line setback)
 - Between buildings E-3 and E-4:
To allow a 15'± building to building setback in lieu of the required 100' - (50' building to lot line setback)
 - Between buildings E-1 and E-3:
To allow a 70'± building to building setback in lieu of the required 100' - (50' building to lot line setback)
- B.C.Z.R. Section: 409.6.
To allow 10 parking spaces for a retail display building and immediate sales area in lieu of 33.5 spaces required.
- B.C.Z.R. Section: 409.8.A.2.
To allow gravel driveways and parking areas in lieu of paved surfaces.
- B.C.Z.R. Section: 409.8.A.6.
To allow the gravel parking areas to not be striped.

Delivered
No longer
Meaning 2
TMK

April 10, 1995
PROPERTY DESCRIPTION
BERNSTEIN PROPERTY
(FOR ZONING PURPOSES ONLY)

Beginning at a point on the centerline of Lyons Mill Road approximately 1,480 feet, more or less, in a westerly direction from the centerline of the intersection of Deer Park Road and Lyons Mill Road running the following thirty-five (35) courses and distances:

- North 69°28'49" West 233.11 feet, more or less, to a point; thence,
- South 64°59'59" West 211.77 feet, more or less, to a point; thence,
- North 73°48'47" West 65.16 feet, more or less, to a point; thence,
- North 19°09'40" East 147.88 feet, more or less, to a point; thence,
- North 70°44'12" West 10.00 feet, more or less, to a point; thence,
- North 08°55'12" West 1,116.84 feet, more or less, to a point; thence,
- North 75°31'43" East 205.82 feet, more or less, to a point; thence,
- South 86°20'59" East 80.46 feet, more or less, to a point; thence,

page 2
April 10, 1995
PROPERTY DESCRIPTION
BERNSTEIN PROPERTY
(FOR ZONING PURPOSES ONLY)

- North 76°27'33" East 60.17 feet, more or less, to a point; thence,
- South 84°56'57" East 57.38 feet, more or less, to a point; thence,
- North 81°35'45" East 38.96 feet, more or less, to a point; thence,
- South 89°59'45" East 24.53 feet, more or less, to a point; thence,
- South 85°15'21" East 15.64 feet, more or less, to a point; thence,
- South 86°08'13" East 27.23 feet, more or less, to a point; thence,
- North 45°31'20" East 6.73 feet, more or less, to a point; thence,
- South 40°07'43" East 203.85 feet, more or less, to a point; thence,
- South 49°35'18" East 77.95 feet, more or less, to a point; thence,
- South 55°35'42" West 41.40 feet, more or less, to a point; thence,
- South 05°48'15" West 294.58 feet, more or less, to a point; thence,
- South 14°59'13" West 88.61 feet, more or less, to a point; thence,

page 3
April 10, 1995
PROPERTY DESCRIPTION
BERNSTEIN PROPERTY
(FOR ZONING PURPOSES ONLY)

- South 34°36'46" West 62.44 feet, more or less, to a point; thence,
- South 55°49'46" West 39.62 feet, more or less, to a point; thence,
- South 16°22'03" West 73.41 feet, more or less, to a point; thence,
- North 48°53'04" West 36.59 feet, more or less, to a point; thence,
- South 10°35'18" West 41.81 feet, more or less, to a point; thence,
- South 30°36'52" West 111.39 feet, more or less, to a point; thence,
- South 28°36'28" East 172.58 feet, more or less, to a point; thence,
- South 47°54'49" West 19.77 feet, more or less, to a point; thence,
- South 13°10'27" West 32.95 feet, more or less, to a point; thence,
- South 30°10'58" East 124.64 feet, more or less, to a point; thence,
- South 21°43'47" East 39.85 feet, more or less, to a point; thence,
- South 26°05'35" East 22.80 feet, more or less, to a point; thence,

page 4
April 10, 1995
PROPERTY DESCRIPTION
BERNSTEIN PROPERTY
(FOR ZONING PURPOSES ONLY)

- South 07°51'46" East 68.10 feet, more or less, to a point; thence,
- South 61°11'22" East 25.38 feet, more or less, to a point; thence,
- South 06°30'13" West 12.21 feet, more or less, to the point of beginning.
Containing approximately 13.87 acres, more or less
Also known as 10212 Lyons Mill Road.



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 2nd Date of Posting: 3/1/95
Posted for: Special Exception Variance
Petitioner: Vance Cole
Location of property: 10212 Lyons Mill Rd.
Location of Sign: 10212 Lyons Mill Rd. Property being zoned
Remarks: See map, p. 2. Property being zoned
Posted by: [Signature] Date of return: 3/1/95
Number of Signs: 1

NOTICE OF HEARING
The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CERTIFICATE OF PUBLICATION

TOWSON, MD. 4/26, 1995
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 4/5, 1995.

THE JEFFERSONIAN.

A. Henrickson
LEGAL AD. - TOWSON

Case Number: 95-361-XA (Item 353)
10212 Lyons Mill Road
N/S Lyons Mill Road, 1480' W of Deer Park Road
2nd Election District - 3rd Councilmanic
Legal Owner: Vance Cole
Contract Purchaser: Randall D. Bernstein
HEARING: MONDAY, MAY 22, 1995 at 2:00 p.m. in Room 118, Old Courthouse.
Special Exception for a landscape service operation/horticultural nursery. Variance to allow 45 feet +/- from property line to a non-residential building in lieu of the required 50 feet (50-foot building to lot line setback) between buildings E-1 and E-2; to allow a 43-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-2 and E-3; to allow a 15-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-3 and E-4; to allow a 70-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-1 and E-3; to allow 10 parking spaces for a retail display building and sales area in lieu of 33.5 spaces required; to allow gravel driveways and parking area in lieu of the paved surfaces; and to allow the gravel parking area to not be striped.
LAWRENCE E. SCHMIDT, Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible for special accommodations. Please Call 887-3353.
(2) For information concerning the file and/or hearing, please call 887-3353.
4/28/95 April 27.

receipt
95-361-XA

Account: R-0116150

Number: 353

BY JLL

Date: 4/11/95
1/SPX FLUNG CODE 050 300.00
1/VAR FLUNG CODE 020 250.00
3 SIGNS CODE 080 105.00
\$ 655.00
OWNER: COLE
LOC: 10212 LYONS MILL RD. PAY BY: ARBOR MASTERS INC.
Please Make Checks Payable To: Baltimore County

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES (410) 887-3353

Baltimore County zoning regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be accessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

[Signature]
ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 353

Petitioner: Vance Cole

Location: 10212 Lyons Mill Road, Towson, MD 21204

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Randall David Bernstein

ADDRESS: 10917 Lysen Road

Rockville, MD 20853

PHONE NUMBER: 521-5481

AJ:ggs

(Revised 04/09/93)

TO: PUBLIX PUBLISHING COMPANY
April 27, 1995 Issue - Jeffersonian

Please forward billing to:

Randall David Bernstein
10917 Liberty Road
Randallstown, MD 21133
521-5481

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-361-XA (Item 353)
10212 Lyons Mill Road
N/S Lyons Mill Road, 1480' W of Deer Park Road
2nd Election District - 3rd Councilmanic
Legal Owner: Vance Cole
Contract Purchaser: Randall D. Bernstein
HEARING: MONDAY, MAY 22, 1995 at 2:00 p.m. in Room 118, Old Courthouse.

Special Exception for a landscape service operation/horticultural nursery. Variance to allow 45 feet +/- from property line to a non-residential building in lieu of the required 50 feet (50-foot building to lot line setback) between buildings E-1 and E-2; to allow a 43-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-2 and E-3; to allow a 15-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-3 and E-4; to allow a 70-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-1 and E-3; to allow 10 parking spaces for a retail display building and immediate sales area in lieu of 33.5 spaces required; to allow gravel driveways and parking area in lieu of the paved surfaces; and to allow the gravel parking area to not be striped.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3353.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 21, 1995

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-361-XA (Item 353)
10212 Lyons Mill Road
N/S Lyons Mill Road, 1480' W of Deer Park Road
2nd Election District - 3rd Councilmanic
Legal Owner: Vance Cole
Contract Purchaser: Randall D. Bernstein
HEARING: MONDAY, MAY 22, 1995 at 2:00 p.m. in Room 118, Old Courthouse.

Special Exception for a landscape service operation/horticultural nursery. Variance to allow 45 feet +/- from property line to a non-residential building in lieu of the required 50 feet (50-foot building to lot line setback) between buildings E-1 and E-2; to allow a 43-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-2 and E-3; to allow a 15-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-3 and E-4; to allow a 70-foot +/- building to building setback in lieu of the required 100 feet (50-foot building to lot line setback) between buildings E-1 and E-3; to allow 10 parking spaces for a retail display building and immediate sales area in lieu of 33.5 spaces required; to allow gravel driveways and parking area in lieu of the paved surfaces; and to allow the gravel parking area to not be striped.

[Signature]
Arnold Jablon
Director

cc: Vance Cole
Randall David Bernstein
Robert A. Hoffman, Esq.

NOTES: (1) ZONING STUDY & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE OF THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3353.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 15, 1995

Robert A. Hoffman, Esquire
210 Allegheny Avenue
Towson, Maryland 21204

RE: Item No.: 353
Case No.: 95-361-XA
Petitioner: Vance Cole

Dear Mr. Hoffman:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by the Office of Zoning Administration and Development Management (ZADM), Development Control Section on April 11, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,
[Signature]
W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management
May 11, 1995
FROM: J. Lawrence Pilson
Development Coordinator, DEPRM
SUBJECT: Zoning Item #353 - Bernstein
10212 Lyons Mill Road
Zoning Advisory Committee Meeting of April 24, 1995

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Environmental Impact Review

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

Development of the property must comply with Regulations for Forest Conservation.

The proposed parking, display building, and sale area are partially to totally located in wetlands and/or floodplain and the Forest Buffer associated with the stream, wetlands, and floodplain. No improvements may be constructed in this area.

Ground Water Management

Prior to the transfer of this property, not served by public water, the well water system will have to meet the provisions of Title 35 Article II of the Baltimore County Code (Individual Water Supplies).

Soil percolation tests will be required for any of the developed "areas" prior to the approval of any structures in which sanitary wastewater plumbing is to be approved.

Prior to any development plan approval, the underground fuel tank must be precision tested or properly removed and backfilled. Prior to removal or abandonment, owner must contact the Division of Waste Management at 887-3745.

Agricultural Preservation Program

Nursery businesses are an important part of the agricultural economy in Baltimore County. This use, if it meets all the standards for this site, should be encouraged to increase the agricultural production in the County.

JLP:VK:TE:ML:sp

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and Development Management
DATE: May 5, 1995
FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section
RE: Zoning Advisory Committee Meeting
for May 1, 1995
Items 352, 353, 354, 355, 358, 359, and 360

The Developers Engineering Section has reviewed the subject zoning item and we have no comments.

RWB:sw



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

4-21-95

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 102
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No: 353 (JLL)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for Ronald Burns, Chief
Engineering Access Permits
Division

BS/

My telephone number is

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: May 17, 1995

FROM: Pat Keller, Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):

Item No. 353

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: *Jeffrey W. Long*

Division Chief: *Cary L. Kiser*

PK/JL

ITEM353/PZONE/ZAC1

Baltimore County Government
Fire Department



700 East Joppa Road, Suite 901
Towson, MD 21286-5300

(410) 887-4500

DATE: 04/25/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: VANCE COLE

LOCATION: N/S LYONS MILL RD., 1400' W OF DEER PARK RD. 10212 LYONS MILL RD. - BERNSTEIN PROPERTY

Item No. 353 Zoning Request: SPECIAL EXCEPTION

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

RECEIVED
APR 27 1995

ZADM

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4681, MS-1102F

cc: File

RE: PETITION FOR SPECIAL EXCEPTION
PETITION FOR VARIANCE
10212 Lyons Mill Road, N/S Lyons Mill Rd.,
1480' W of Deer Park Road, 2nd Election
District - 3rd Councilmanic
Vance Cole / Randall D. Bernstein
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE NO. 95-361-XA

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of May, 1995, a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Esquire, Venable, Baetjer & Howard, 210 Allegheny Avenue, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Emily Watson
Liberty Communities
Development Corp

8500 Church Lane
Bowie/Towson, Md 21133

JUSTHALER
ALAN SCOLL

557 4A
7115 AMERISHADE RD
21244

CARIS ZIPPIN
(INTERESTED PARTY)

214 WASHINGTON AVE
TOWSON MD 21204

Rob Hoffman
Randall D. Bernstein
Brian A. Bernstein

210 Allegheny Ave 21204
7256 Lake Hills Dr 21104
123 Oakway Road 21073

VANCE & TRACEY COLE

10212 LYONS MILL RD 21077

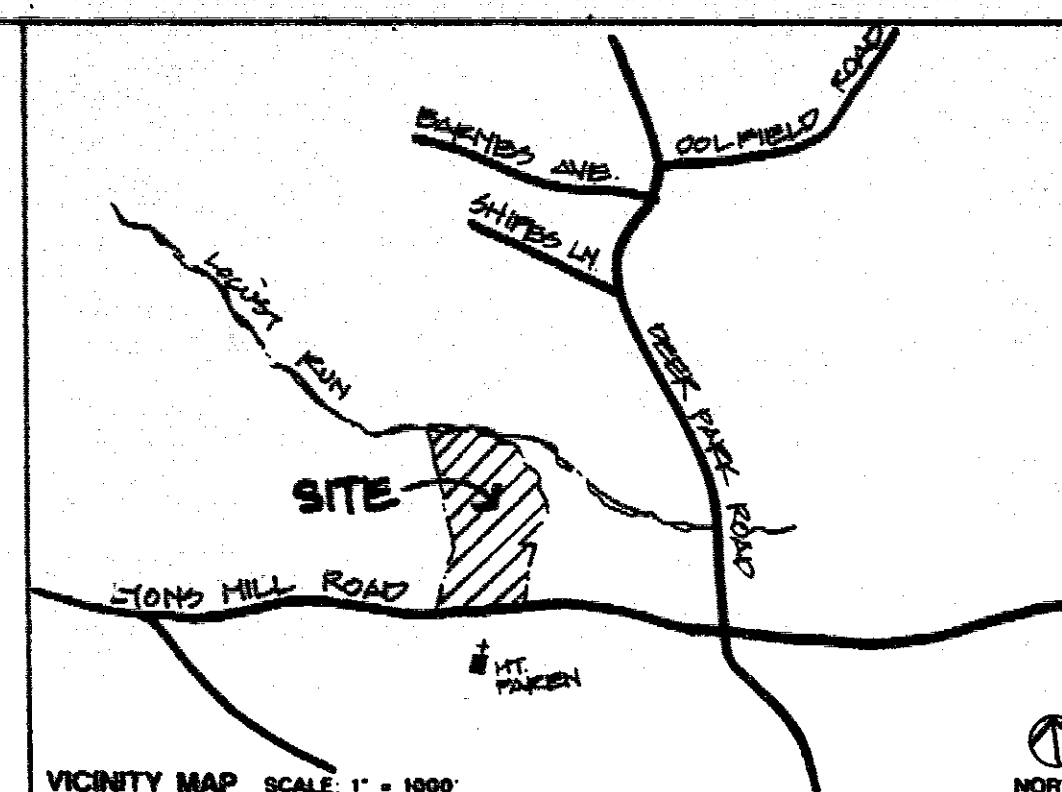
Annunzio

6410 Oak Hill Ave 21184

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P. U. -	1. planting unit		
1. P. U. -	Major deciduous tree or		
	blending deciduous trees or		
	evergreen trees or		
	5 shrubs or		
	500 P. U. of ground cover		
		REQUIRED:	DISPOSED:
ADJACENT	1. P. U. /40 P. U.		Never will be
ROAD:	(Min. 75% major		applied for based
	deciduous)		on density and
			extent of existing
INTERIOR	1. P. U. /20 P. U.		vegetation
	(Min. 75% major		
	deciduous)		
SCREEN OF	Class "A" screen		
5' x 5' REAR	1. P. U. /15 P. U.		
LOT LINE:	(Min. 5" Bl. at		
	maturity Min.		
	30" Bl. at		
	installation)		
SCREEN OF	Class "A" screen		
PERRING LITS	1. P. U. /15 P. U.		
FROM ADJACENT	(Min. 1" Bl. at		
PUBLIC R/W:	maturity Min. 18"		
	at installation)		
SCREEN OF	Class "A" screen		
DUMPSTERS:	1. P. U. /15 P. U.		
	(Min. 5" Bl. at		
	maturity Min. 30"		
	at installation)		

11. Soil and Slope Mitigation Measures:
 - a. The developer shall do the following in those areas where severe or moderate soil limitations are indicated and/or steep slopes occur:
 - a. Insure that grading plans consider protection of those areas from increases in run-off. This will include draining runoff down slopes and driving in stone armor drains.
 - b. Stabilization of disturbed areas in accordance with approved sediment control practices.
 - c. Provide for geotechnical assistance with on-site inspectors as required.
12. This property as shown on the Plan has been intact by the owner since 1960. According to best knowledge, the portion of the gross area of this property as shown on the Plan has never been utilized, recorded or represented as density or area to support any off-site development.
13. Future signs shall conform with S.041.1.0 & E of the S.C.R.S. and all zoning policies.

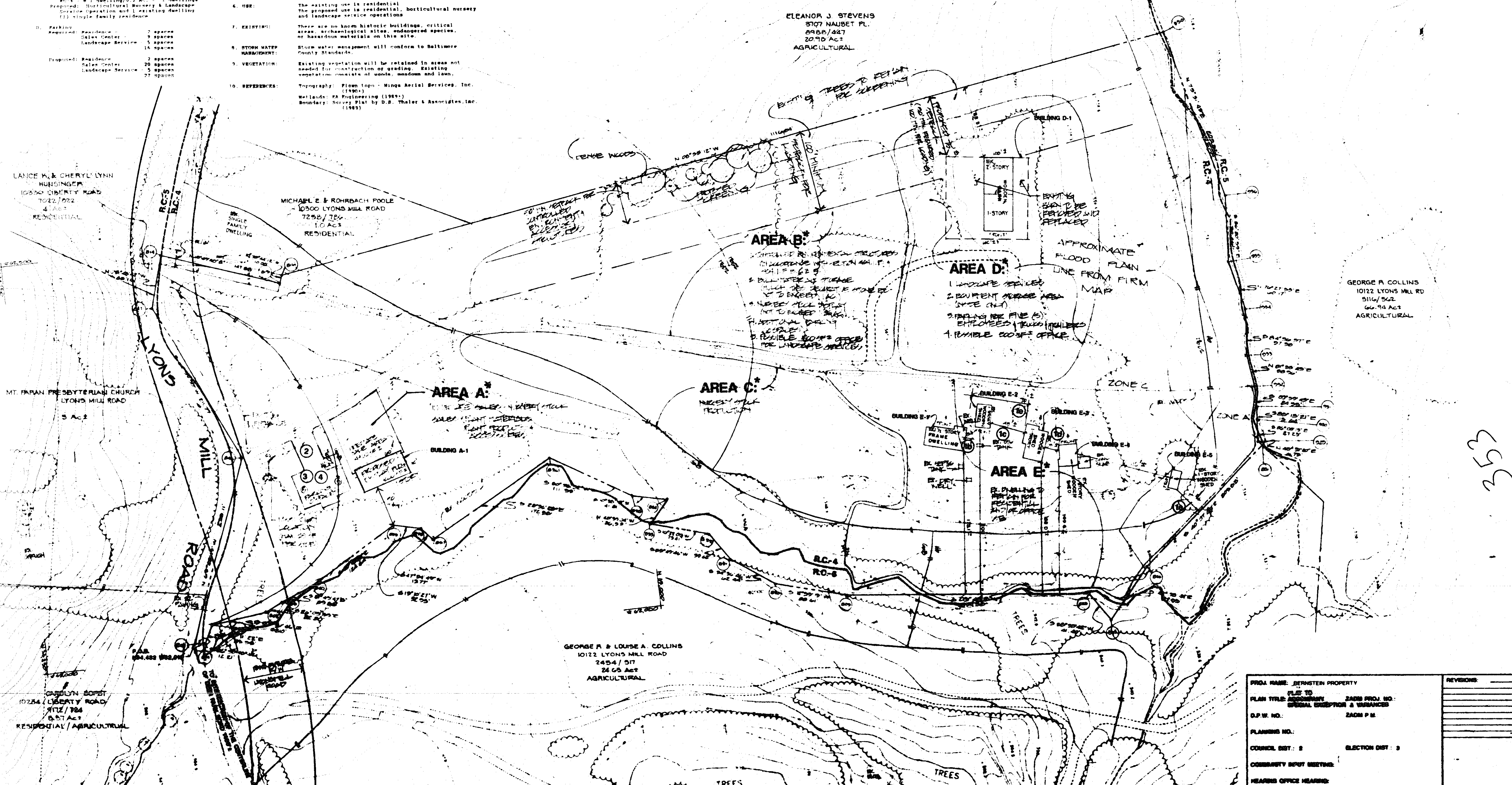


OSTA

THE UNIVERSITY OF CHICAGO

REPORT AT TO ACCOMPANY SPECIAL EXCEPTION AND VARIANCES

BERNSTEIN PROPERTY



* NOTE
AREA DESIGNATIONS ARE FOR IDENTIFICATION PURPOSES ONLY AND ARE NOT INTENDED TO DELIMIT ZONING USE AREAS AS DEFINED IN SECTION 102.2 (B.C.Z.P.) OR SUBDIVISION OF THE PARCEL.

- [illegible]



PROJ. NAME: BERNSTEIN PROPERTY
 FILE TO
 PLAN TITLE: ADDITIONAL ZONING PROJ. NO.:
 SPECIAL EXCEPTION & VARIANCES
 D.P.W. NO.: ZONING P.M.
 PLANNING NO.:
 COUNCIL DIST.: 2 ELECTION DIST.:
 COMMUNITY MEETING:
 HEARINGS OFFICE HEARING:

REVISED

OWNER
VINCE COLE
19212 LYONS MILL ROAD
SWANESS HILLS, MD 21117
410-426-5252

APPLICANT

RANDALL D. BERNSTEIN
10047 LIBERTY ROAD
RANDALL STONE, MD 21139

D & THALER & ASSOCIATES INC.

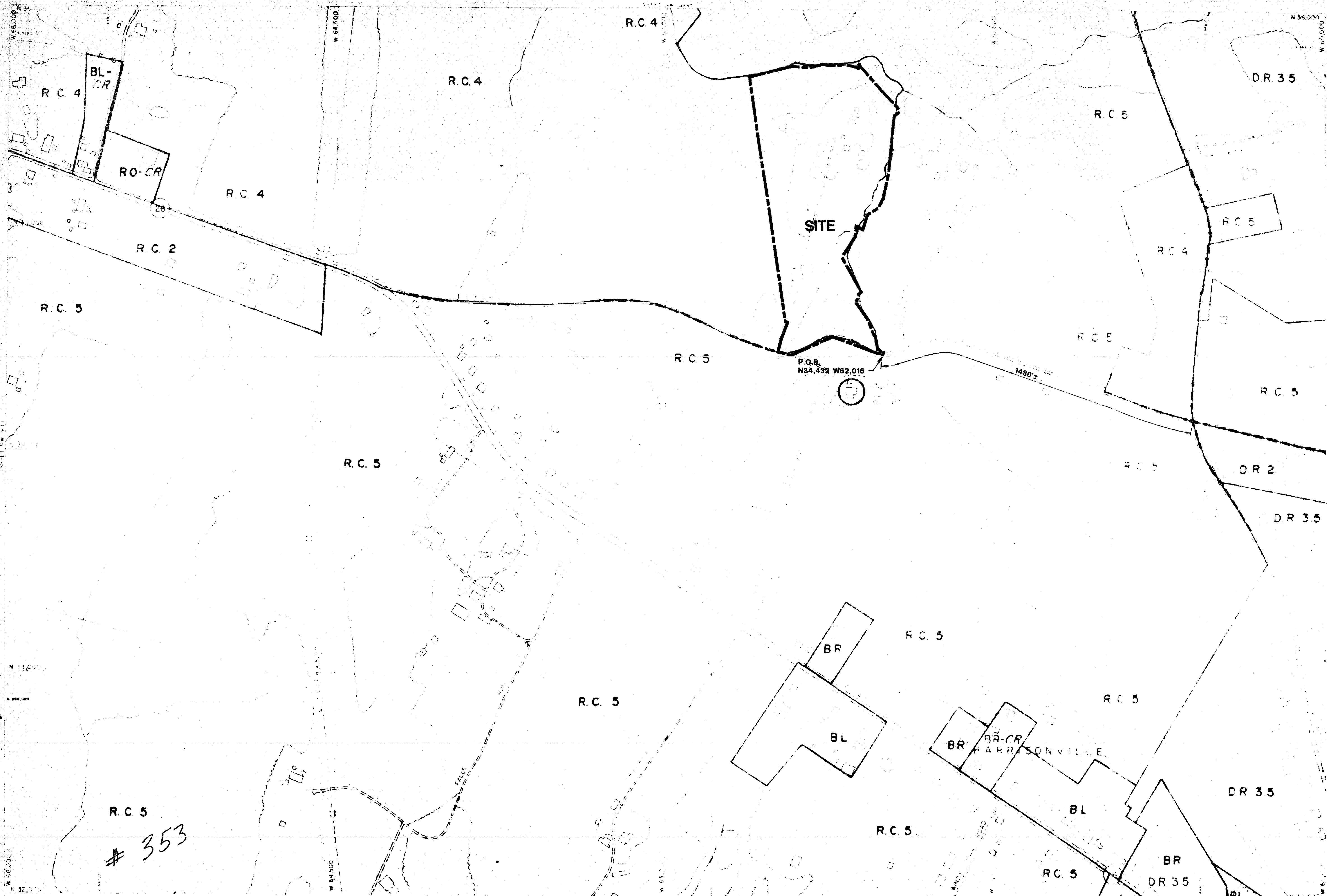
OFF. ENGINEERS OFF. ENGINEERS

LANDSCAPE ARCHITECTS - LAND PLANNERS

THE CONGRESSIONAL RECORD SALES PRICE: \$4.00 PER COPY

100-443888-100

DATE: JAN 1968
SERIAL: 1000
SI: 2
FBI NO: 1000
SERIAL: 1000



200 SCALE ZONING MAP TO ACCOMPANY SPECIAL EXCEPTION & VARIANCES
BERNSTEIN PROPERTY

D.S. THALER & ASSOC., INC.
CIVIL ENGINEERS • LAND PLANNERS • SURVEYORS • LANDSCAPE ARCHITECTS
7115 AMBASSADOR ROAD, BALTIMORE, MD 21244
(410) 944-ENGR. (410) 944-3647

DATE: JAN. 13, 1994

**BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP**

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992

William A. Howard
Chairman, County Council

SCALE	LOCATION	SHEET
DATE OF PHOTOGRAPHY JANUARY 1986	HARRISONVILLE	NW 9-K

95-361-XA